

REMARKS:

The claims in the application are 1-16 and 18.

Favorable reconsideration of the application as amended is respectfully requested.

It is respectfully requested all future communications be reported to the address of the undersigned attorney listed below and associated with Customer No. 28249 (a Change of Correspondence Address was electronically filed on June 8, 2010).

Claim 17 has been canceled without prejudice, rendering moot the rejections under 35 U.S.C. §112, second paragraph and 35 U.S.C. §103 of this claim. It is respectfully pointed out dependent Claim 16 specifically recites directly applying the ink to the bakery dough product prior to baking while independent Claim 1 just generally recites applying an ink to bakery dough without further specifying how or when such ink is applied. Accordingly, it is respectfully submitted Claim 16 further limits independent Claim 1.

It is noted the rejection of Claims 1-15 and 18 under 35 U.S.C. §103 has been maintained in the reissued Office Action while Claims 1, 16 and 17 have also been treated on the merits. More specifically, Claims 1-17 have been rejected under 35 U.S.C. §103 as obvious over GB 2,291,578 to McNamee et al in view of either U.S. Pat. Nos. 4,670,271 to Pasternak or 5,711,791 to Croker et al while Claim 18 has been rejected as obvious over McNamee et al in view of newly-cited U.S. Pat. Pub. No. 2004/0040446 to Errera in the Final Office Action. However, it is respectfully submitted the invention as recited in all pending claims herein is patentable over this combination of art for the following reasons.

The amount of sucrose has been restricted to 6-60% and the amount of color restricted to 1-20% in Claim 1 while the amount of sucrose has been restricted to 6-35% by volume in Claim 10. Support for these amendments can be found throughout the present application, e.g., in original Claim 10 as filed.

As pointed out previously, while McNamee et al might show marking a dough surface prior to baking, McNamee et al fail to disclose ink components in any detail and most certainly fail to disclose the ink components recited in the presently-claimed invention. The inks disclosed in Pasternak and Croker et al are not subsequently baked.

More specifically, the sucrose component of Pasternak is explicitly disclosed as 1 to 5% (column 16, line 44) while the food coloring content is disclosed as less than 1% (column 1, line 47). Accordingly, the ink disclosed in Pasternak does not fall within the ink composition of the presently-claimed invention.

Therefore, it is respectfully submitted a person skilled in the art, given the problem of applying ink to a dough surface prior to baking, would not be able to arrive at the method of pending Claim 1 by considering McNamee et al with Pasternak because the ink of Pasternak is not used in a product that is subsequently baked. However, even assuming, *arguendo*, one skilled in the art considers McNamee et al and Pasternak together, the resulting ink composition taught by combining these two references still falls outside the claimed invention.

The components of the ink in Croker et al are not clearly disclosed. While use of sucrose might be discussed, it would appear some of the compositions containing sucrose are stated to be unstable (column 10, lines 6-8 and Table 2C). Additionally, no range of an appropriate amount of sucrose is given for inclusion into the ink; thus, a person skilled in the art would face arduous experimentation to determine correct proportions.

In the claimed ink composition, glycerol is used together with water and a solvent to provide an ink with low surface tension to reduce beading of the ink on the bakery product. Croker et al disclose a list of solvents which includes glycerol monoacetate, glycerol diacetate and glycerol triacetate, however an ethanol/water mixture is preferred and used in all examples. The use of glycerol, water and ethanol in combination is not disclosed or suggested in Croker et al., while the use of glycerol to reduce ink beading is certainly neither disclosed nor suggested, with no range of possible amounts of glycerol being given.

It is asserted Croker et al teach use of polyhydric alcohols, allegedly making it obvious to utilize glycerol as a component of the ink. However, the inks of Croker et al include sorbitol and maltitol which are polyhydric alcohols, in a particular ratio for use as binder to impart suitable viscosity to the ink (column 9). There is a lengthy discussion at columns 9-10 on the amounts of sorbitol and maltitol which must be used to give the ink the desired properties. Thus, based upon the teachings found in Croker et al themselves, it is not at all obvious to simply substitute glycerol for the specifically-required combination of sorbitol and maltitol.

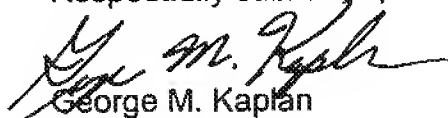
Therefore, one skilled in the art clearly would not arrive at the claimed combination when combining McNamee et al with Croker et al because the compositions of inks of Croker et al are not clearly defined. Croker et al explicitly disclose using sucrose would result in a destabilized ink, thus teaching away from the presently claimed invention. Furthermore, the use of glycerol as a binder is not disclosed in Croker et al, with the binder composition being a carefully-selected ratio of sorbitol and maltitol as set forth above, also teaching away from the presently claimed invention.

Errera adds nothing to McNamee et al which would render obvious the invention recited in Claim 18, while the remaining art of record has not been applied against the claims and will not be commented upon further at this time.

Accordingly, in view of the forgoing amendment and accompanying remarks, it is respectfully submitted all claims pending herein are in condition for allowance. Please contact the undersigned attorney should there be any questions.

Early favorable action is earnestly solicited.

Respectfully submitted,



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